In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.28134-M of 2007

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Date of decision:11.5.2007

Ishwar Singh

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Present: Mr. B.S. Chahar, Advocate for the petitioner.

Mr. Narinder Sura, Assistant Advocate General, Haryana for the respondent-State.

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S.S. Saron, J. (Oral)

This petition has been filed for issuance of directions to SSP, Hisar (respondent No.2) to register a FIR against respondents No.4 and 5 and others.

On the last date of hearing a copy of the petition was handed over to the learned State counsel to enable him to seek instructions in the matter.

The learned State counsel has submitted a report of Dr. B.S. Khatri wherein he has opined in reference to his MLR No.BSK-94/07 that all the injuries declared on the person of the petitioner are simple in nature and possibility of friendly hand cannot be ruled out. Report of the District & Sessions Judge dated 18.5.2000 in respect of one Dalip Kumar son of Hira Nand, who had been undergoing imprisonment for the offence under Section 302 IPC has been produced in which it has mentioned that inmates in the Jails used Berobil which is a Compound Dithronol Ointment. Its application has shown that it produces marking on the body which look

very similar to contusions. It is easier for a person to procure this ointment and can be applied on his back. Thereafter to get himself medically examined by saying that the marks on the back were the result of `lathi' blows. In this manner, the ointment can be misused and great mischief can be played by convicts and under-trials by lodging private complaints against the Jail staff.

Keeping in view the nature of allegations and counter-allegations, this Court in exercise of its jurisdiction under Section 482 Cr.P.C. is not to go into the veracity of facts or the allegations as made by the petitioner. This is the domain of the learned trial Court in case a complaint is filed before it. The Additional Sessions Judge Dr. Shiva Sharma vide his order dated 11.4.2007 passed in case No.50-SC titled State v. Balla Ram, has already sent the photo copy of the complaint to the learned District & Sessions Judge, Hisar for such action for security of the under-trial detenu as may be deemed appropriate.

In the circumstances, the learned Sessions Judge, Hisar is already seized of the matter. The petitioner may, if so advised, approach the Sessions Judge for providing him necessary security. As regards the allegations as made in this petition the petitioner may, if so advised, file a private complaint in accordance with law.

The criminal miscellaneous petition stands disposed of.

May 11, 2007. **(S.S. Saron)**
Judge

hsp